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OFFICE OF PETITIONS

In re Application of :
Bernt Karlsson et al :
Application No. 09/864,468 :
Filed: May 23, 2001 :
Attorney Docket No. 34646-00451USPT :

ON PETITION

This is a decision on the petition under 37 CFR 1.137(b), filed September 23, 2005, to revive the above-identified application.

The petition is **GRANTED**.


The above-identified application became abandoned for failure to reply within the meaning of 37 CFR 1.113 in a timely manner to the final Office action mailed April 1, 2004, which set a shortened statutory period for reply of three (3) months. A reply under 37 CFR 1.113 is limited to an amendment that *prima facie* places the application in condition for allowance or a Notice of Appeal (and appeal fee required by 37 CFR 1.17(b)). The amendment submitted on June 29, 2004, did not *prima facie* place the application in condition for allowance as noted in the Advisory Action mailed October 21, 2004. Therefore, as no Notice of Appeal (and appeal fee), Request for Continued Examination (RCE) or a continuing application was timely filed. A three month extensions of time under the provisions of 37 CFR 1.136(a) was obtained. Accordingly, the above-identified application became abandoned on October 2, 2004.

The petition satisfies the conditions for revival pursuant to the provisions of 37 CFR 1.137(b) in that (1) the reply in the form of an amendment; (2) the petition fee; and (3) the required statement of unintentional delay have been received. Accordingly, the reply to the final Office action of April 1, 2004 is accepted as having been unintentionally delay.

An extension of time under 37 CFR 1.136 must be filed prior to the expiration of the maximum extendable period for reply. See In re Application of S., 8 USPQ2d 1630, 1631 (Comm'r Pats. 1988). Accordingly, since the \$1,020 extension of time submitted with the petition on September 23, 2005 was subsequent to the maximum extendable period for reply, this fee is unnecessary and will be credited to petitioner's deposit account.

Telephone inquiries concerning this decision should be directed to Wan Laymon at (571) 272-3220.

This matter is being referred to Technology Center AU 2683.


Wan Laymon
Petitions Examiner
Office of Petitions